Katten Muchin Rosenman LLP

525 W. Monroe Street
Chicago, IL 60661-3693
312.902.5200 tel
312.902.1061 fax

Russell B. Selman
russell.selman@kattenlaw.com
312.902.5390 direct
312.577-8679 fax

December 7, 2005

VIA E-MAIL and FEDERAL EXPRESS

Thomas J. Krueger, Esq.
Senior Attorney
U.S. Environmental Protection Agency
77 W. Jackson Boulevard (C-14J)
Chicago, Illinois 60604-3590

Re: **Ellsworth Industrial Park**
Conceptual Site Model and Work Plan: Recommendations for focused investigation of additional likely responsible parties

Dear Mr. Krueger:

Pursuant to our discussions with you and Mazin Enwiya, we are providing Lovejoy's recommendations for a number of properties, each of which we believe requires additional, focused investigation to determine whether the owner / operator may be liable for the Ellsworth Industrial Park Superfund Site ("Site"). In accordance with your suggestions regarding Dr. Cooney's initial spreadsheet distributed to EPA and the current PRPs several months ago, we provide detailed reasons in support of targeted sampling in specific locations of each property we identified based on:

1) deposition testimony in the *Muniz* case regarding typical operations of the numerous metals-type manufacturing businesses at the Site;

2) Dr. Cooney's review of prior sample locations in regard to where such operations were most likely to have caused releases of solvents; and

3) our analysis of the 2001 Illinois EPA surveys and CERCLA 104(e) information request responses for properties which, based on operations and the location of prior sample results, were most likely to have had as-yet-unidentified solvent releases.

A separate sheet is attached for each property we have targeted for focused sampling. Based on our discussions, we limited our work to properties within the current Site boundaries. Please note that the properties we have included are on the same block, and in some cases properties adjoined or within close proximity to current PRPs. Without additional investigation of these properties, the ultimate remedy will be subject to challenge and thus may be jeopardized.

We hope that we will be able to further refine and supplement our suggestions as EPA's contractors continue to organize and interpret prior data and information, and we look forward to working with you to ensure that all responsible parties are identified based on continuing development and interpretation of facts and the resulting focused sampling. For example, soil sampling along building perimeters is likely to miss areas of impact which may be present beneath building foundations or in utility corridors – places which were not sampled in the earlier, Phase II-type investigations. Groundwater sample results also may not accurately represent site conditions, especially if the samples were collected at depths less than 30 feet. Water samples collected at depths shallower than 30 feet could be perched water and the presence or absence of indicator contaminants is not an accurate portrayal of the concentration of these constituents in the groundwater table. A review of historical operations at several properties located within the Site suggests that a number of other companies should be considered potentially responsible parties and subject to additional site investigations.

In view of the pending lawsuits in both the State and Federal courts against the parties already identified by EPA, it is critical that we identify all responsible parties for the Ellsworth Industrial Park Site. Based on our experience at other sites that have generated this extent of litigation seeking non-cleanup relief – *e.g.*, personal injury, medical monitoring for thousands of class members, *etc.* – it is quite possible that after even one significant judgment, EPA's current group of potentially responsible parties will lack the resources needed to fund any additional environmental remedies.

Finally, we note that it is only fair to attempt to identify the additional responsible parties. The *Muniz* depositions to date indicate very strongly that just one of the current defendants – *i.e.*, Precision Brand Products, which is the successor to DuPage Manufacturing Company – will, in our opinion, be liable for the overwhelming share of the contamination originating from the Site. Our attachments include excerpts from the deposition transcripts of the three individual witnesses in the *Muniz* case who testified that DuPage mopped their floors with TCE, using a mop and bucket. There are other likely sources at the Site that EPA can examine in a focused investigation, and thus the remaining companies named by EPA, who appear to be much less liable than Precision, should not have to stand alone in bearing the burden of any judgments that Precision may not be able to satisfy.

This is especially true because EPA's screening levels for identifying responsible parties in the prior rounds of investigation no longer appear to be appropriate. As you have noted, EPA believes that the significant releases at the Site occurred pre-RCRA – that is, prior to 1980 – and Mr. Enwiya stated that the Site geology is extremely complex. In other words, the migration of releases that occurred at least a quarter-century ago – and perhaps as long as a half-century ago – will vary widely at the Site depending on the type of soils and underlying geological formations into which the release occurred. For example, EPA's screening criteria for past PRP identifications rewarded companies located on properties at which the soils are porous enough

for the released solvents to have already migrated into the groundwater and become diluted. During his review of the data, Dr. Cooney found a number of properties that likely used solvents and at which EPA's contractor found trace amounts of solvent in the groundwater. Arguably the owner /operators of these properties have avoided responsible party status to date simply because of that property's "lucky" geology – that is, their contamination has already migrated through the soils and into the groundwater.

We appreciate your willingness to consider Lovejoy's analysis and we thank you in advance for your response.

Sincerely,

Russell B. Selman

Enclosures (Separate attachments for Precision TCE mopping testimony [Attachment A] and each example property – Attachments B through O)

cc: Mazin Enwiya
Remedial Project Manager
U.S. Environmental Protection Agency
77 W. Jackson Boulevard (SR-6J)
Chicago, Illinois 60604-3590

PRP Group Members (via e-mail)

Tom Brininger (via e-mail, w/o encl.)

ATTACHMENT A

SELECTED DEPOSITION TESTIMONY

Quick Marks Report [Ann Muniz et. al. v Rexnord et. al.]

[63:7] 10/24/2005 Schrader, Warren

page 63
Q. How many times did you have to tell the janitor to stop using the TCE to mop the floor?
A. I don't recall.

[63:10] 10/24/2005 Schrader, Warren

page 63
Q. Well, the first time that you found out that the janitor was using the TCE to mop the floor, how did you find out about it?
A. By the smell.

[87:16] 10/24/2005 Schrader, Warren

page 87
Q. Did you make any inquiry into how he was cleaning his mop after he had gotten through mopping with the TCE?
A. No.

[88:16] 10/24/2005 Schrader, Warren

page 88
Q. Okay. And what efforts did you make, as the plant manager, to assure that when this janitor used this TCE to mop the floor, that the TCE didn't end up in the sewer?
A. I don't understand the question.

[97:23] 10/24/2005 Schrader, Warren

page 97
Q. You can answer the question. Did you ever consider it, how he was going to clean out his mop?
A. Probably not.

[97:24] 10/24/2005 Schrader, Warren

page 97
Q. You can answer the question. Did you ever consider it, how he was going to clean out his mop?
A. Probably not.

[98:2] 10/24/2005 Schrader, Warren

page 98
Q. So then you probably would not have told him to take any special precautions in cleaning his mop. Fair?
A. No.

[98:18] 10/24/2005 Schrader, Warren

page 98
Q. There's a statement in this -- going back to Ms. Torrez's comments, it says, "During the late 1970's (approximate date, but I think she meant 1978 or 1979) DuPage Manufacturing tried another type of cleaner (soap) but it was like pushing a mop into molasses, so they went back to using TCE."
Do you remember that occurring where there was an effort to use a different type of cleaner, but then the decision was made to go back to

Quick Marks Report [Ann Muniz et. al. v Rexnord et. al.]

using TCE?
A. No.

[51:24] 11/4/2005 Anderson, Wesley

page 51
Q. How would you get the trichlor to put into your mop bucket?
A. We would use the dirty trichlor from the **degreaser to mop -- to clean the floors with.**

[55:13] 11/4/2005 Anderson, Wesley

page 55
Q. Okay. And you would go over to your -- when you were press operator, you would go over to your press **and you would mop around that area?**
A. Correct.

[62:13] 11/4/2005 Anderson, Wesley

page 62
Q. You don't recall him ever reprimanding you for **using TCE to mop up?**
A. No, never.

[99:5] 11/4/2005 Anderson, Wesley

page 99
Q. Was there a written standard operating **procedure on how to mop the floor with TCE?**
A. No, I don't think so.

[99:13] 11/4/2005 Anderson, Wesley

page 99
Q. Essentially you were pointed to a bucket and mop and told --
A. Yeah, when you became an operator, 90 percent of the time you've already been there so you already **knew how to mop the floor. If you were a new hire, you** were training on the machine, and at that point, you were shown how to clean the floor and the machine.

[107:11] 11/4/2005 Anderson, Wesley

page 107
Q. So you would have to carry the bucket from the degreasing area back to --
A. Well, you could roll it back. If you were smart, you'd brought it back with a forklift or pallet jack. That way you weren't going to spill. You could **push it back using the mop handle and you would have a** bucket going all over the place spilling fluid everywhere. If you were smart, you'd use a pallet jack and -- or forklift and then take it back.

[129:1] 11/4/2005 Anderson, Wesley

page 129
Q. When you would mop the floor with TCE, how big of an area would you mop?
A. I don't know. It could be very small or very large depending on what was going on.

Quick Marks Report [Ann Muniz et. al. v Rexnord et. al.]

[130:7] 11/4/2005 Anderson, Wesley

page 130
Q. Did somebody tell you?
A. Well, you didn't know -- initially, you have no idea what it is. They would say this is -- if I'm **training the person, I'd say this is what we mop the** floor with. If he asked what it is, you tell him. If he doesn't ask, at that point in time, it was no big thing.
We were using TCE so we would say this is what we clean the floor with, we clean the presses with this, the tools with this, wash our hands with this. If they say, well, it smells bad, you know...

[130:21] 11/4/2005 Anderson, Wesley

page 130
Q. And did you teach others to mop the floor with TCE?
A. Yes, I did.

[141:7] 11/4/2005 Anderson, Wesley

page 141
Q. I have just a couple things hopefully just following up on all the other questions you've been asked today. My first question is: Was the TCE that **was put into the mop bucket, was it diluted with** anything --
A. No.
Q. -- like water?

[141:11] 11/4/2005 Anderson, Wesley

page 141
Q. -- like water?
So the only liquid in the mop bucket was TCE?
A. Yeah, as far as I know.

[35:12] 11/17/2005 Torrez, Mary Rita

page 35
Q. When did you first use trichlor to clean the floors?
A. Trichlor was used all the time that I was there except for a short time. Probably a -- well, maybe about two years or a year prior to the shutdown of the company they used another substance for a couple of weeks or couple of months which wasn't any good. It was some kind of a soap, and it just didn't cut. You **couldn't push a mop around. It was like it was glued to** the floor. So everybody complained about it, including myself. Just didn't do the job. Trichlor cut it.

[46:18] 11/17/2005 Torrez, Mary Rita

page 46
Q. (By Mr. Robins) Did you see him do that?
A. No. They had a clean trichlor drum and they had -- at one time that was filled and there were no buckets around at the time and Tony had told me, he says, "I'll get you some clean trichlor. Go back to your station and I'll bring it over to you," which he did.
But at the time he had made a comment something about -- how in the heck did it come out? "Leave it here. I'll bring you some clean trichlor.

Quick Marks Report [Ann Muniz et. al. v Rexnord et. al.]

I'm sick and tired of replacing the sump pump in the dock. I had to replace three of them." That was the first I heard that somebody was dumping.

[46:23] 11/17/2005 Torrez, Mary Rita

page 46
Q. Okay.
A. I never dumped. I never knew of anybody that **dumped except for the comment that the three sump pumps** were burned out because of it.

[48:23] 11/17/2005 Torrez, Mary Rita

page 48
Q. Okay. And what you're telling me is Tony told **you that he had to replace that sump pump three times?**
A. Right.

[54:19] 11/17/2005 Torrez, Mary Rita

page 54
Q. So he told you specifically, "People have been **dumping dirty TCE into this sump pump and I'm sick and** tired of having to fix it"?
A. He's tired of replacing. He replaced three sump pumps already at that time. That was his job, I guess, to replace it. So he didn't want to replace another one. Well, that was the first I ever heard of it.

[55:12] 11/17/2005 Torrez, Mary Rita

page 55
Q. (By Mr. Robins) We're back on the record, and I wanted to talk about the method that you used to clean. You mentioned that you would use this TCE to mop the floors. Would you use any kind of special mop, or was it a mop that we would use -- be familiar with to mop any kind of floor?
A. No. Industrial mop, which is a lot bigger and heavier.

[55:17] 11/17/2005 Torrez, Mary Rita

page 55
Q. If the mop would get dirty, which I'm sure it would with this oil, it would be rinsed in the TCE itself?
A. Trichlor, yeah.

[60:11] 11/17/2005 Torrez, Mary Rita

page 60
Q. And after that you went back to using the TCE?
A. Trichlor again. This other stuff did not do the job at all. We even cut the mops in half, took half **of the fringe off to make the mop lighter so we could** push it around; and it was like somebody magnetized it to the ground. I mean, you just can't move it. It's too heavy.

[67:19] 11/17/2005 Torrez, Mary Rita

page 67
Q. Right.

Quick Marks Report [Ann Muniz et. al. v Rexnord et. al.]

17 A. Sure, it was on the floor. What do you think
18 it -- how can you clean the floor without it getting on
19 **the floor because you've got a wet mop that goes on**
20 there that has trichlor on there. Common sense.

[70:16] 11/17/2005 Torrez, Mary Rita

page 70
14 Q. And whatever the surface area was, wherever
15 there was machinery, trichlor was being used in those
16 **areas to mop?**
17 A. Right.

[70:21] 11/17/2005 Torrez, Mary Rita

page 70
18 Q. After every shift?
19 A. Every employee had to clean their work station.
20 Q. Was it obvious to the management people at the
21 **company that the employees were using trichlor to mop?**
22 MR. KALICH: Objection. Foundation.
23 A. Yes.
24 Q. (By Mr. Robins) Did you see management people

[120:12] 11/17/2005 Torrez, Mary Rita

page 120
9 Q. I had a few follow-up questions. I think most
10 of them have been asked. So just bear with me as I
11 stumble through them.
12 **The sump that was on the west side, that's**
13 where Tony told you that trichlor had been dumped?
14 A. Yes.

[125:18] 11/17/2005 Torrez, Mary Rita

page 125
17 Q. (By Mr. Maher) If there was a crack, you would
18 **mop over it anyway, right?**
19 A. Sure.

[125:20] 11/17/2005 Torrez, Mary Rita

page 125
20 **Q. If there was a seam there, you would mop over**
21 that as well, right?
22 A. Yeah.

ATTACHMENT B

THROUGH

ATTACHMENT O

JL Clark/Atlas Tube/MXL

Analysis: Significant pre-RCRA solvent use; routine transfer, transport and use of solvents through the facility in buckets / pails, etc.; lack of sampling in areas where contamination is most likely to be found.

Recommendation: TARGETED SAMPLING

Property Location: 2300 Wisconsin & vicinity

Pre-RCRA Activities: Per its 104(e) response, J. L. Clark /Atlas Tube, was a manufacturer of toothpaste tubes, who operated at the site from 1967 to 1997 – well before RCRA was enacted in 1980. As a result, this property fits the typical Ellsworth PRP profile – a metals manufacturing-type business with significant pre-RCRA solvent use.

Evidence of Solvent Use: J.L. Clark's 104(e) response provides almost exclusively post-RCRA information, such as solvent management plans from 1986 and 1992. Even this post-RCRA information documents major solvent use, which we must reasonably assume did not decline from the pre-RCRA era. For example:

1. **Solvent-based chemicals were used as paint thinners, in adhesives and inks, and for cleaning/degreasing.** Chemicals such as 1,1,1 TCA and an unspecified chlorinated solvent (33.5%) were used in the machine shop. F003 wastes were routinely generated and disposed. A 1992 waste profile for F003 waste shows that it contained ethyl ether, toluene, MEK, ethyl acetate and 1,1-TCA. MIBK, naphtha/mineral spirits, toluene, and xylene were also reported as present in MSDs from J.L. Clark.

2. **The solvent management plan states that Solvent 600 (assumed to have been listed as Solvent 660) was stored in quantities up to 335 gallons and contained 1,1,1-TCA and was stored in 55 gallon drums.** According to its 1989 Generator Report, waste solvents, waste paints, and still bottoms were generated.

3. **Spills from the storage area would have drained to an outside area that EPA did not sample.** According to the solvent management plan:

> "There are no bulk storage tanks at this facility. Attached is a plant layout designating where the solvents/toxic organics listed above are stored. All solvents/toxic organics except the oils and lubricants are stored in a specifically designed locker or vault. The locker floor is seven inches below the plant floor level. There are three separate drains in the wall at floor level located in the east wall of the locker (and plant). These are three feet above ground level and therefore any spill going through the drains will end up on the ground outside the locker and plant. The dimensions of the locker are 36-1/2 feet x 12-1/2 feet and the spill containment capacity is 1990 gallons if the drains are plugged."

The layout is presented herein as Figure 1. The attached sampling diagram (Figure 2) for 2300 Wisconsin (Weston, 2004) shows that sample borings were collected predominantly from the northern side of the facility and well away from likely production areas within the facility. In fact, GP-65 appears to have been located too far north to have enabled the evaluation of potential floor drain discharges to the ground outside the waste storage "locker". Truck pickup areas, such as dock driveways should also be sampled to determine the likelihood of releases from spills during waste management. As seen in Figure 2, no samples were collected in these dock areas.

Figure 1. J.L. Clark Schematic

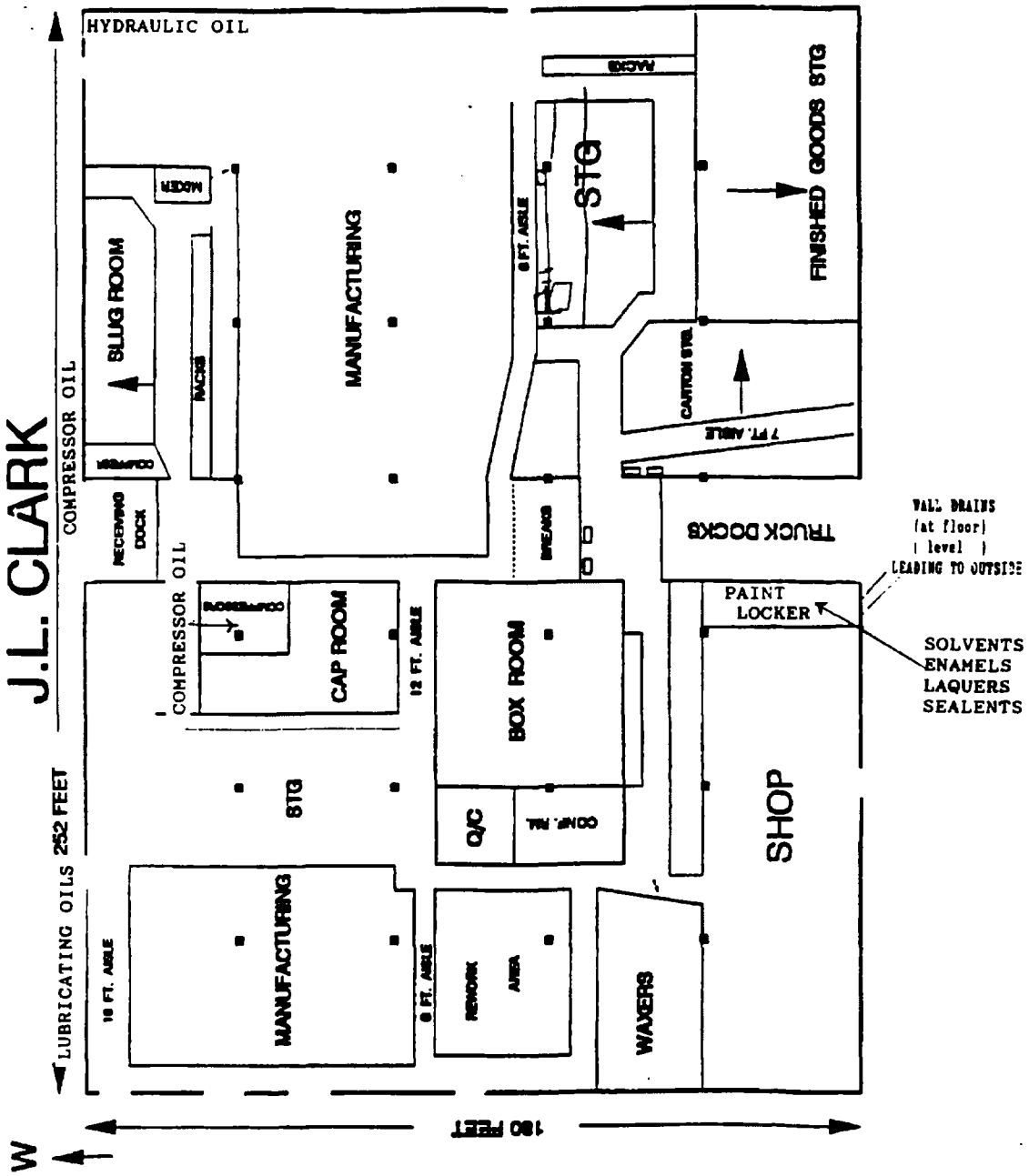
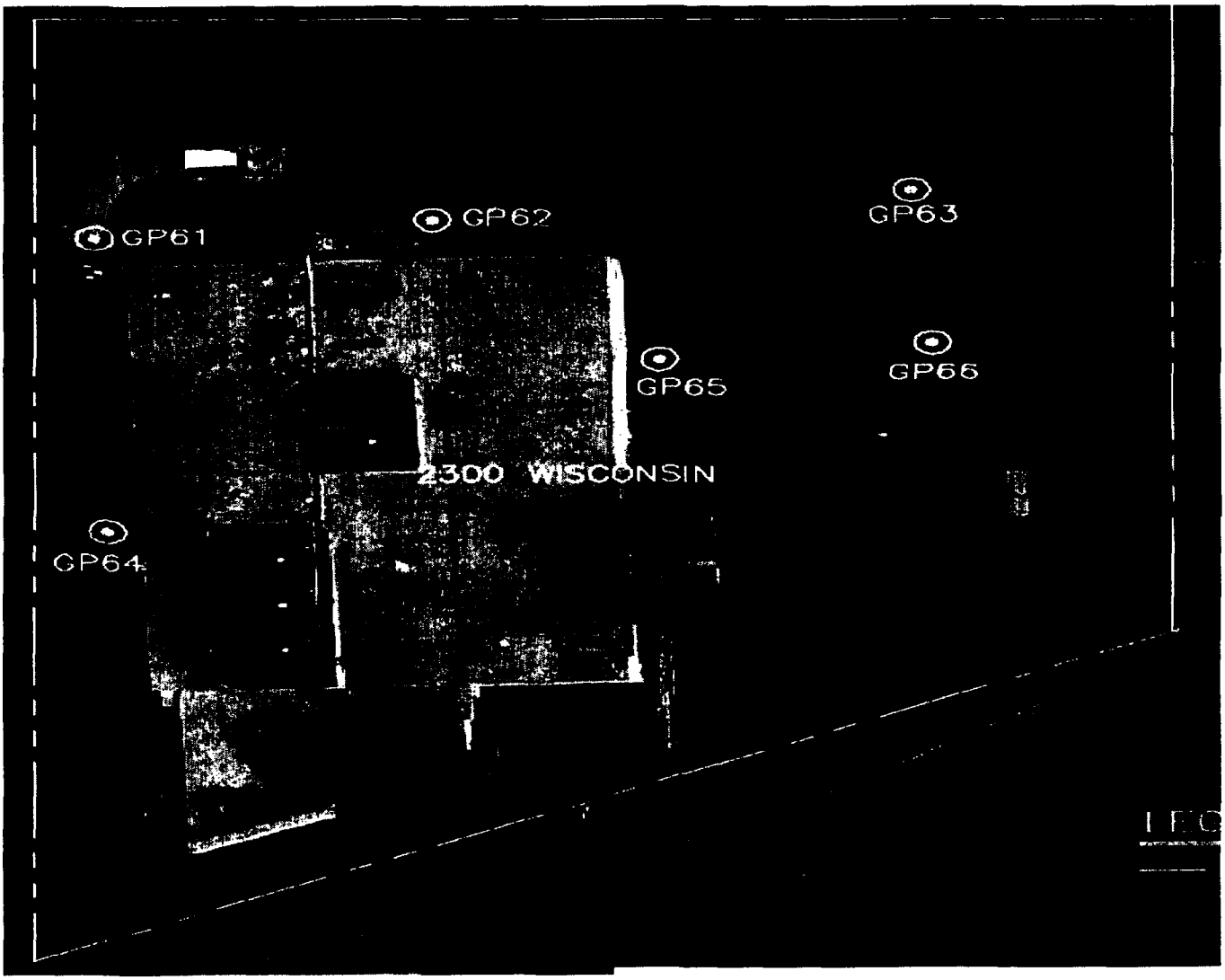


Figure 2. Weston Sampling Locations



Litton / Magnetek (Liberty Copper & Wire)

Analysis: Significant pre-RCRA solvent use; lack of sampling in areas where contamination most likely to be found.

Recommendation: **TARGETED SAMPLING**

Property Location: 2333 Wisconsin & vicinity (currently occupied by Suburban Self Storage)

Pre-RCRA Activities: Litton Systems stated in its 104(e) response that Liberty Copper & Wire was incorporated in 1956, acquired by Jefferson Electric Company in 1970, and merged into Litton Systems in 1972 – well before RCRA was enacted in 1980. Litton sold the business to Magnetek in 1984. Prior to 1986, the facility generated waste enamel and solvent. Review of information from the U.S. EPA CERCLA Records Center indicated that the facility used solvents, toluene, xylene, and methanol.

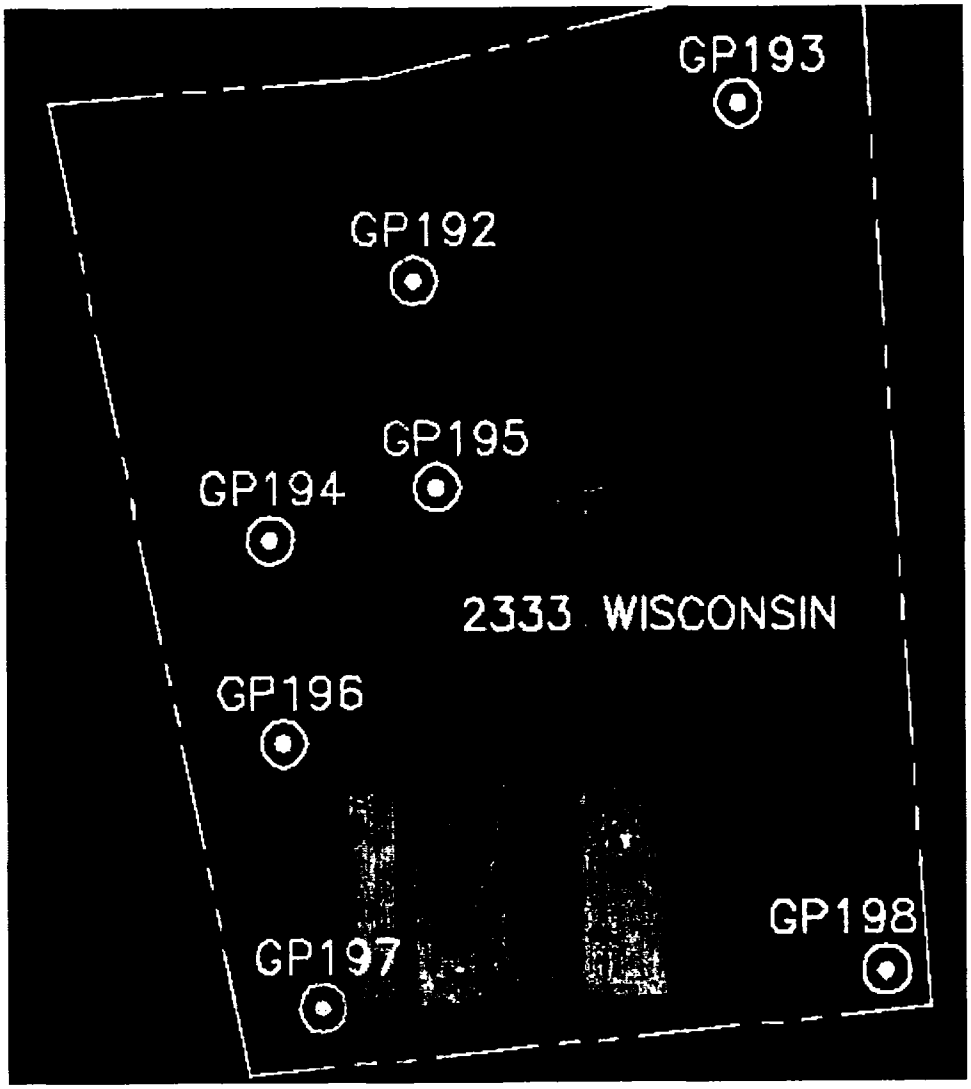
Evidence of Solvent Use: Available information indicates substantial, historic solvent use. For example:

1. **Finished products and raw materials such as solvents, plating bath solutions, and coatings were stored in 55-gallon drums inside the building.** Liberty manufactured copper wire for electrical purposes, and operations included drawing, enamel coating, and electroplating.

2. **In 1993, EPA (PRC, performed a Preliminary Site Assessment / Visual Site Inspection ("VSI") that identified four solid waste management units (SWMUs):** During the VSI, U.S. EPA documented waste generation at the facility including solvent, waste enamel, solvent, electroplating sludge, phenol, and urethane. Corresponding waste codes associated with waste generation identified above include F003, F004, F005, F006, D001, U188, and U238. In 1985, Liberty Copper & Wire generated approximately 9,000 pounds of waste enamel and solvent which was shipped off-site. The site was previously regulated under the Resource Conservation and Recovery Act (RCRA). During RCRA closure activities, soils were contaminated with xylene (57,100 mg/l). Review of historical information provided by Environmental Data Resources, Inc. (EDR) indicated that three 4,000-gallon USTs and one 5,000-gallon UST containing hazardous substances were closed.

3. **The VSI failed to address the potential for solvent releases from the solvent storage SWMU:** In 1987, Illinois EPA approved closure of a former indoor waste drummed waste storage area (east). This area was not identified as a SWMU until after EPA performed the VSI. EPA's contractor tried to downplay this issue by stating that it had observed the "general area" and the concrete floor was not cracked or stained and did not show any evidence of previous use. Presumably that would be the outcome of closure – the point is to remove all waste from, and clean / repair, the area that is being closed. Thus the VSI fails to address the issue of the potential for prior releases into the underlying soil and groundwater.

4. **Subsequent sampling also failed to target the most likely solvent release locations:** In 1990 PRC took samples for a 19,000 sq. ft. addition to the west side of the facility. As shown Figure 2 of the PRC report, they collected five of their seven samples from the west side exterior – areas likely not to show impacts. They collected the other two borings, GP-193 and GP-198, along the property line. More accurate sampling is needed from the footprint area of the former Liberty/MagneTek facility, especially in vicinity of SWMU #1 (former outdoor drummed waste storage area and SWMU #4 (former neutralization tank), as identified in PRC Figure 2. Also, the drainage ditch along Inverness Avenue, south of the facility, should be sampled. The reported flow direction is to a culvert located on Janes Street, and adjacent to impacted areas (*i.e.*, the Tricon facility) immediately to the west. Many buildings constructed in the Industrial Park reportedly had floor drains which discharged outside onto the ground. In 1997, the Green Environmental Group proposed conducting a Phase II sampling investigation beneath the building floors and in the basement to evaluate the presence of xylene at this site. Given the historic nature of operations and the strong probability that degreasing solvents were likely needed to remove drawing oils from the wire, it is likely that solvent and xylene contamination exists beneath the building floor.


GP193
GP192
GP195
GP194
2333 WISCONSIN
GP196
GP198
GP197

Flexible Steel & Lacing ("Flexco")

Analysis: Soil samples to date were not collected in areas most likely to show impacts, such as in the vicinity of the probable location of the former degreaser, and no groundwater samples were collected, and thus further investigation is appropriate.

Recommendation: TARGETED SAMPLING

Property Location: 2525 Wisconsin

Pre-RCRA Activities: Flexco is a manufacturer of flexible steel lacings, conveyor belt fasteners, and belt products and has been operating at this location since 1967. As described below, Flexco used a vapor degreaser since 1968.

Evidence of Solvent Use: From approximately 1968 to 1992, Flexco used TCE in its vapor degreaser, which it used to remove excess oil from bolts and nuts prior to entering the heat treat furnace. Note:

1. **Long-term, high volume solvent use:** TCE was used as the solvent and stored in 55 gallon drums. In 1977, the original degreaser was replaced with a new degreaser and a 250 gallon above ground bulk tank was installed for storage of virgin solvent. This operation used approximately 5 drums of TCE per month. Virgin solvent was delivered to the facility by Baron Blakeslee, and stored in a 250 gallon above ground tank. Spent TCE was stored in drums in the heat treat work area. A cold trap solvent saver was installed in 1982 which reduced solvent use to approximately 4 drums per quarter. The vapor degreaser was removed in 1992 along with the 250-gallon storage tank and the former degreaser location was **cleaned** (emphasis added) and filled with concrete.

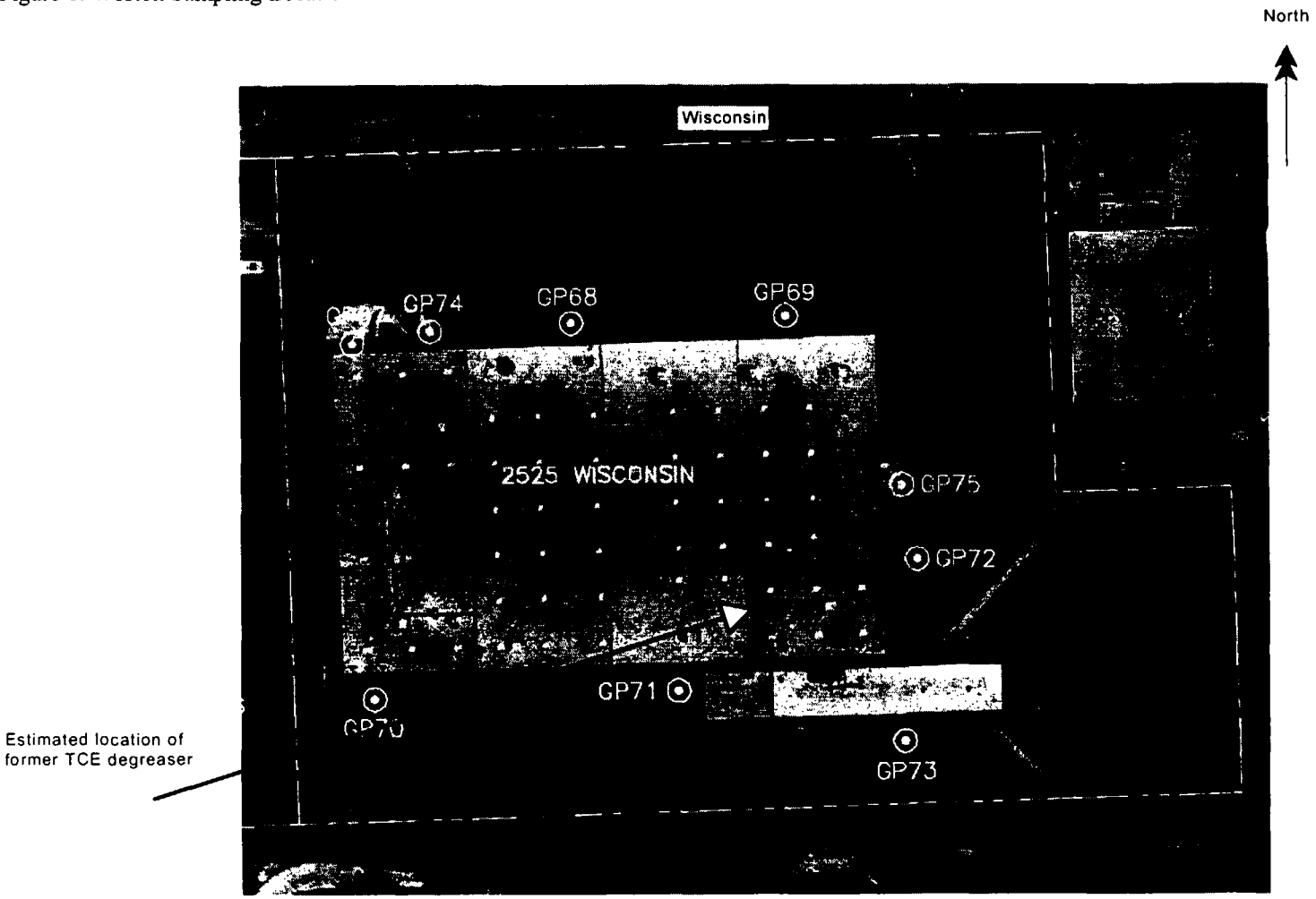
2. **Questionable claim that no solvent releases ever occurred, even pre-RCRA:** Flexco reported that during its decades of use of its TCE degreaser, there were no releases of solvent from the unit. Based on industrial experience however, this is unlikely. Typical vapor releases occur during:

- Parts drying/dripping/draining operations;
- Degreaser over filling or draining into drums;
- Vapor/steam condensate containing small amounts of solvent are typically discharged from the degreasing tank;
- Virgin tank filling; and
- Other TCE uses – such as rag wiping of equipment.

Prior sampling did not include the areas where releases were most likely to have occurred: Soil samples were not collected in areas likely to show impacts, such as in the vicinity of the former degreaser, and no groundwater samples were collected from this property. In about 1982, a building extension was added to the west. Weston samples, GP67, 70, and 74, collected along the outside of the "new" extension are not likely representative of the soil conditions beneath the West Side of the original building. Based on the building layout provided in Flexco's 104(e) response, the degreaser and degreaser storage tank were located in the southwest corner of the original (1967 era) building and toward the center of the present building, well away from the Weston sampling locations, GP69 and GP75. Based on the description provided in the 104(e) response, the approximate location of the degreaser and storage tank was added to the Weston sampling diagram.

Note, the plant layout provided is dated October 19, 2001 and was created in response to IEPA's request for information. From a building layout perspective, it seems that the vapor degreaser is located on the opposite side of the plant from the heat treat furnace (end point for degreased nuts and bolts) and the nut and bolt department (origin of parts to be degreased.). The degreasing area is shown next to the lunchroom, which also seems to be an unusual location. It would seem more likely that the degreaser was installed farther to the west, in the vicinity of the aqueous parts washer. In any case, it does not appear that potentially impacted subsurface areas were sampled during the Weston investigation.

Figure 1. Weston Sampling Locations



Burlington Northern & Santa Fe Railroad ("BNSF")

Analysis: Evidence of pre-RCRA disposal (a major train derailment in 1973) and BNSF's inadequate 104(e) response warrants further factual investigation and sampling.

Recommendation: INTERVIEW WITNESS; LOCATE AND SAMPLE BURIED TANKER CARS

Property Location: Belmont and Ogden along railroad tracks

Pre-RCRA Activities: BNSF is a likely PRP because EPA investigators learned that BNSF buried rail cars at the site of a March 4, 1973 derailment at the Belmont Avenue crossing. Per EPA's CERCLA 104(e) request the train was headed to Seattle and contained tanker cars which BNSF subsequently buried at the site of the derailment.

Inadequate PRP Response and Need for Follow-up Action: BNSF submitted a woefully inadequate response to EPA's CERCLA Section 104(e) dated February 15, 2002, and thus EPA should require BNSF to comply with its legal obligations under Section 104(e). For example:

1. **BNSF objected to EPA's Request #13 of its CERCLA Section 104(e) letter seeking "information regarding a maintenance yard that was run by BNSF in the Downers Grove, Illinois area."** BSNF stated in its March 13, 2002 response that: "BNSF objects to this Request insofar as it does not specifically identify the 'Downer's Grove, Illinois area' and requests further clarification in order to search its records."

This answer is non-responsive and evasive. EPA should use its authority under Section 104(e) to require BNSF to answer this question for Downers Grove and for a reasonable radius in all directions.

2. **BSNF did not provide a full and complete response to EPA's Request #3, which required BSNF to identify all persons who may be able to provide a detailed or more complete response to any Information Request.** Per EPA's definition provided in the Information Request, "identify" includes an obligation to provide the person's address, phone number, etc. Instead, BSNF provided the name of a retired employee, Forester DuSell, but refused to provide his contact information, and stated that: "We can reach him if you are interested in speaking with him at a time convenient for him."

A search for phone entries for this individual's name at anywho.com and produced the following information:

Dusell, Forester
1244 Brigham Wy
Geneva, IL 60134
630-232-2686

EPA or its employees or contractors should attempt to locate the buried rail cars – *e.g.*, with a metal detector and/or by interviewing Mr. DuSell. EPA should also review prior Sanborn or other maps to determine if BNSF operated a rail yard or other facility in the Downers Grove area. In view of the proximity of the derailment location to contaminated properties within Ellsworth Industrial Park, it is imperative to find the rail cars and sample for solvent contamination in this area.

Bales Mold Service

Analysis: Current use of a PCE degreaser at the property; prior limited sampling documented the presence of cis-1,2-DCE and 1,1-dichloroethane in a shallow water sample. Based on sample depth it is likely that this contamination originated on site, and based on its presence in water, it is likely that the original released concentrations were higher than indicated by the sample results.

Recommendation: **ADDITIONAL SAMPLING; RESULTS TO DATE WARRANT NAMING BALES AS A PRP OWNER AND/OR OPERATOR**

Property Location: 2824 Hitchcock

Pre-RCRA Activities: Unknown. Concerns regarding the property's known 21 year industrial history are clear, however, and warrant further investigation– *e.g.*, documented contamination on-site and questions regarding TCE usage / volume during Bales' 21 year industrial history.

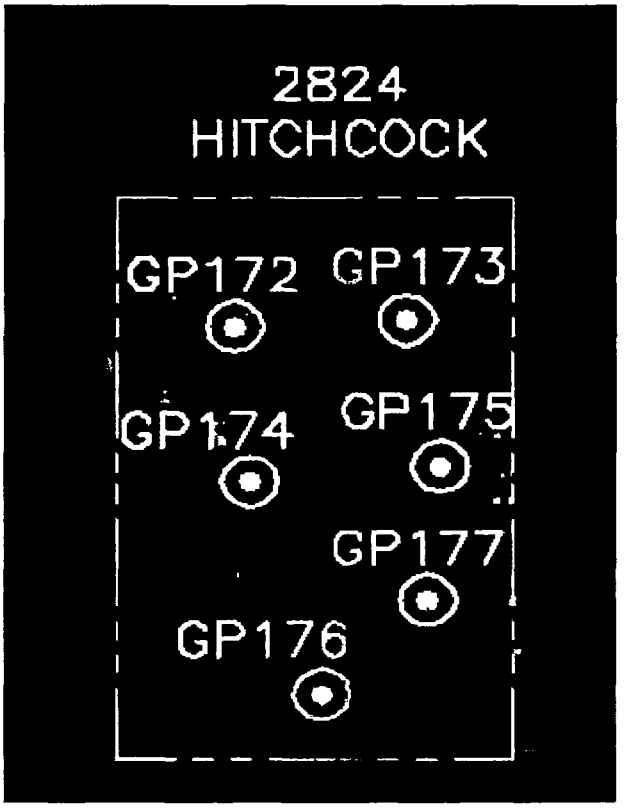
Evidence of Solvent Use: Bales is a plastic injection mold refinisher, and includes chrome and nickel plating operations. They are the owner of the property and were present for over 16 years at the time of the Illinois EPA survey in 2001.

1. **Ongoing TCE degreasing at the property:** According to the IEPA survey and Bales' 104(e) response, a TCE vapor degreaser was located at the property at the time of the survey (purchased in February 2000). The company also indicated that it generates waste hydrochloric acid, nitric acid, and potassium hydroxide (KOH) from refinishing operations. A description of operations on their air permit shows they were performing hard chrome plating and finishing of plastic extrusion molds. The permit contains a TTO limit (which is required per 40 CFR 413) but could imply too that Bales used organic cleaners as part of its plating process. It is not uncommon for plating processes to employ degreasing as a surface preparation step. (*See* the Development Document for Existing Source Pretreatment Standards for the Electroplating Point Source Category, EPA Number: 440179003, August, 1979.) No degreaser is mentioned in Bales' 1993 air permit but if the unit was a cold cleaner it would be exempt from permit requirements.

2. **Discrepancies regarding TCE use:** According to Exhibit L of Bales' 104(e) response, they purchased a small vapor degreaser in February 2000 that holds approximately 5 gal of TCE. Bales provided a purchase record that showed that they purchased 3 x 55 gal drums of TCE in February 2000, in Jan 2001 and in May 2001. The amount purchased/used doesn't add up to their 5 gal statement. Also note that at the time of the IEPA survey in 2001 they indicated that they had not yet generated enough TCE for disposal.

3. **Sample results to date:** Trace amounts of cis-1,2-DCE and 1,1-dichloroethane was found in a shallow water sample collected at this site.

4. **No sampling has occurred in the building where solvents have been used.**


2824
HITCHCOCK
GP172
GP173
GP174
GP175
GP177
GP176

Hahn Graphics

Analysis: As is the case with many of the Ellsworth properties owned by Chase Belmont Properties, there is a serious lack of information regarding prior use, especially pre-RCRA use. This information gap and the presence of 1,1,1-TCA in a groundwater sample from this property warrants additional investigation.

Recommendation: SAMPLING IN AREAS LIKELY TO HAVE BEEN AFFECTED BY INDUSTRIAL OPERATIONS OR CHEMICAL / WASTE STORAGE

Property Location: 5023 Chase

Pre-RCRA Activities: Unknown. Further investigation is appropriate based on: 1) the lack of pre-RCRA information; 2) presence of solvent in the groundwater at the property; and 3) the property's known industrial use since 1997, including use of one product containing up to nearly three percent PCE.

Evidence of Solvent Use: The property was previously occupied by Hahn Graphics, an off-set printing services firm. One solvent product was identified as being used consisting of Safety Kleen 105 Solvent which contains PCE at 0 to 0.2990 percent by weight.

Hahn Graphics is no longer located at 5023 Chase Street. The IEPA survey indicates that Chase-Belmont Properties owns the property, and there is a dearth of information regarding the past use of many of Chase Belmont's properties.

Sample Results: 1,1,1-TCA was detected in a sample of groundwater collected from this site.

C & C Machine Tool Service, Inc.

Analysis: Historical corporate use of TCE and PCE; failure to notify as SQG until 1997 though presumably TCE and PCE were used historically in similar quantities; failure to identify former locations in response to 104(e) request

Recommendation: IDENTIFY YEARS AT FORMER LOCATIONS AND SAMPLE IN APPROPRIATE AREAS

Property Location: 5201 Thatcher: years unknown
5018 Chase: years unknown
5024 Chase: current

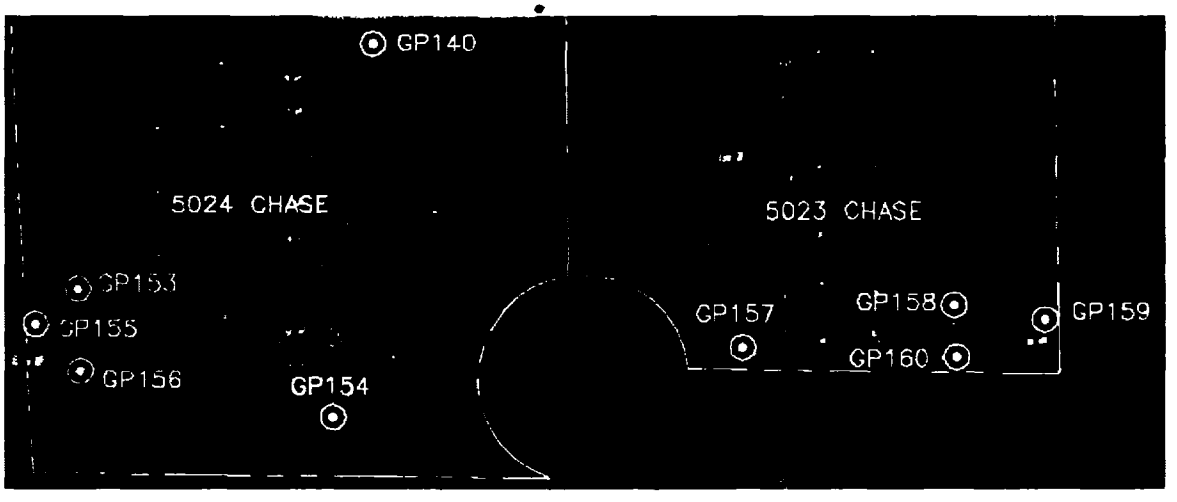
Pre-RCRA Activities: Unknown. Neither the Illinois EPA survey nor C & C's 104(e) response identifies when C & C began operations in Ellsworth Industrial Park.

Evidence of Solvent Use:

1. **TCE and PCE use:** Per the Illinois EPA survey, was using TCE and PCE. The survey states: "Formerly located at 5018 Chase, notified as G2, regulated as G2. Generate various HW, including D039, D001, D035, D040, F003, F005, F007. Generate a waste from cleaning spray guns containing apprrox. 0 – 1% by weight of 1,1,1 trichloroethane and tetrachloroethylene." Also per IEPA survey, repairs electrical components of printing presses, at location 5 years, leases from Lopata (Chase Belmont Properties), former occupant not known. Per their 104(e) response, C & C indicated that they used a lacquer thinner that contained a number of solvents, including 1,1,1-TCA (0 – 1% by wt.), PCE (0 – 1% by wt.), and methylene chloride ((0 – 1% by wt). The IEPA survey for 5201 Thatcher states that C & C was also at this location, but like the survey for 5018 Chase, it does not identify the years of occupancy.

2. **Likely delay in RCRA generator notification / regulation:** Per EPA's Envirofacts database, C & C did not notify as a SQG until 1997.

Sample Results: 1,1,1-TCA was detected in a sample of groundwater collected from this site. Benzene was also detected in this sample.



Contemporary Control Systems, Inc. ("CCSI")

Analysis: Per the Illinois EPA survey results, Contemporary Control Systems, Inc. ("CCSI"), a manufacturer of computer PC boards, operated at this location from 1985 to 1987 and used a degreaser until 1987.

Recommendation: TARGETED SAMPLING IN LOCATION OF DEGREASER AND ANY RELATED DRAINS OR PIPES

Property Location: 2733 Curtiss

Pre-RCRA Activities: None. CCSI is targeted because they used a degreaser at this location and to date the property has not been sampled.

Evidence of Solvent Use: As noted above, Illinois EPA reported that CCSI operated a degreaser at this location from 1985-87. Note, however, that the company's 104(e) response states that the company was organized in December 1992.

Sample Results: To date the property has not been sampled.

Molex

Analysis: Mineral spirits release at Walnut Avenue facility; discrepancies in responses regarding prior operations; lack of sampling in areas where contamination is most likely to be found.

Recommendation: TARGETED SAMPLING

Property Locations: 5225 Walnut, 5224 Katrine, 2800 Hitchcock

Pre-RCRA Activities: Little information is available for the Katrine Avenue property other than Molex purchased the property from a bank trust in 1964. Solvents were likely used at some point because Molex makes electric and electronic connectors, which involves metal-plating and injection-molding operations. The only information known regarding 2800 Hitchcock is that this facility, like the others, was used by Molex at some point for manufacture of fiber optic cable connectors.

Evidence of Solvent Use:

1. **Mineral spirits UST remediation without any testing for TCE or PCE:** The IEPA survey indicated that a 2,500-gallon UST containing mineral spirits was removed from the Walnut facility in 1999. The soil surrounding the tank was contaminated and free product was observed. Soil was remediated and tested for cleanup verification; however, analysis for PCE/TCE was **not** conducted as part of this remediation. Mineral spirits were also used in a stamping operation. Three shallow monitoring wells are present on the Walnut Avenue property, but no specific well information (depth, boring logs, sample data, etc.) was available. These wells were sampled during the U.S. EPA Phase II SA.

2. **Other documented releases:** According to the Illinois EPA LUST database, Molex had two reported incidents for its Downers Grove facilities - IEMA # 880876 for 5224 Katrine and IEMA #991205 for 5225 Walnut. Molex's 104(e) response provided a site report for the Walnut incident -- a CACR. Molex provided nothing for Katrine in its 104(e) response. The LUST database shows the release at Katrine to be "Other Petroleum," i.e., not fuel oil, diesel, or gasoline, so it could have been any solvent. According to its 1989 annual waste report, Molex indicated that approximately 6 tons of plating wastes were generated at the Katrine Avenue facility, suggesting that Molex also conducted plating operations at this location. Degreasing operations historically tended to use solvents, and degreasing was a common pre-cleaning step in plating lines.

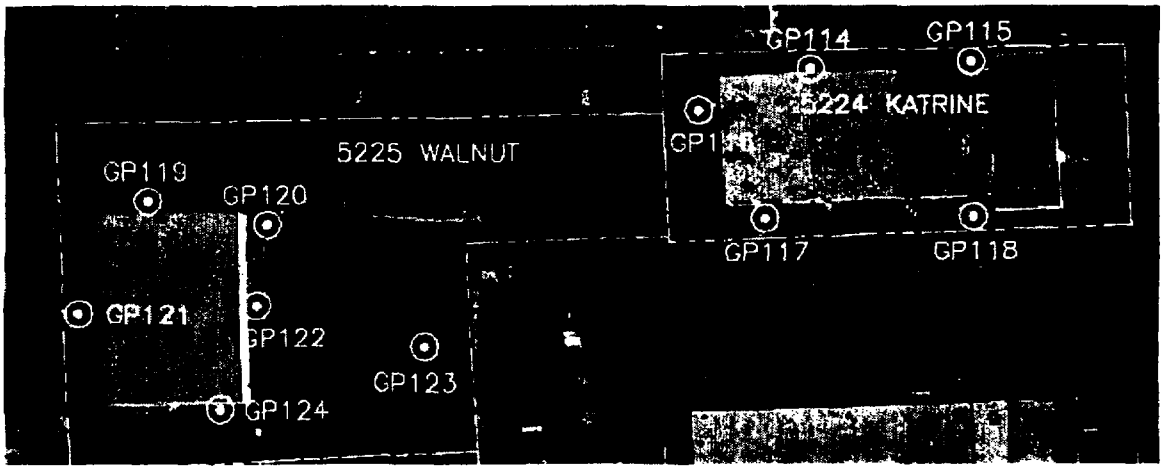
3. **Potential solvent degreasing activities in plating operations:** Molex did nickel plating at the Walnut building. According to its 1989 annual waste report, Molex indicated that approximately 6 tons of plating wastes were generated at the Katrine Avenue facility, suggesting that Molex also conducted plating operations at this location. Degreasing operations historically tended to use solvents, and degreasing was a common pre-cleaning step in plating lines.

4. **104(e) discrepancies; use of large amounts of paint thinner:** In 1989, Molex filed a LQG Report for Katrine (ILD060362274) reporting 4.488 tons of plating waste (F007) and 1.658 tons of "other organic" waste (D001). Thus it appears that Molex's 104(e) response incorrectly stated in its response to Request #6 that no hazardous materials were generated at Katrine. In 1991, Molex filed a LQG Report for Walnut Street (ILD060362274) - disposing of 0.752 tons of paint thinner, 2.992 tons of caustic cleaner, and approximately 48 tons of plating wastes. Also note that TRI reporting was not a legal requirement until 1988 and Molex's 104(e) response stated that they have no historical records about facility operations. Thus they have no basis to assert that they know conclusively what chemicals were and were not used.

5. **Groundwater contamination was detected in prior sampling, and this warrants new sampling in the areas where releases were most likely to occur:** The Weston diagrams indicate that they collected a number of samples around the perimeter of the combined Molex properties. It is not clear if any

soil samples were collected in the area where the former mineral spirits tank was located, although GP119 may be near it. Only one groundwater sample was collected at the Katrine location and no groundwater samples were collected at Walnut. More specifics are needed from Molex about each property, including a building floor plan indicating generally where the various unit operations were located. All of the buildings constructed in the industrial park at this general time frame had floor drains, some plumbed out onto ground, so it is important to find out more about what they did and where they did it.

Sample Results: Only one sample of groundwater was obtained from 5224 Katrine. A trace amount of 111-TCA was detected in this sample. Groundwater was not encountered at 5225 Walnut Street. Sampling was not conducted at 2800 Hitchcock.



Seatt Corporation / Unknown Silk Screen Printer

Analysis: This property was historically occupied by industrial operations that were likely to have used solvents but there is limited information concerning historic solvent use and no sampling to date.

Recommendation: LEARN MORE ABOUT LONG-TERM INDUSTRIAL TENANTS AND PERFORM FOCUSED SAMPLING

Property Location: 2464 Wisconsin

Pre-RCRA Activities: Unknown. The Illinois EPA survey does not identify the years of operations at the property for the two identified industrial occupants and there is no information that the environmental agencies performed any follow-up information gathering activities.

Evidence of Solvent Use: The sparse information available suggests that the types of businesses at this property were likely to have used solvents. Information is available for two businesses as follows:

1. **Long-term silk screen printing:** Per the Illinois EPA survey, a silk screen printer was located at the property here for 13 years. As noted, no years of operation were provided.

2. **Prior occupancy by a company with a Water Pollution Control permit and Illinois and United States EPA waste identification numbers:** The Illinois EPA survey states that a company called Seatt operated at the property prior to the silk screening company.

Sample Results: To date the properties have not been sampled.

Norwood Marking and Equipment Company

Analysis: This property was occupied since the early 1970s by a manufacturing company that performed industrial operations that were likely to have used solvents or solvent-containing chemicals at some time during their operation, especially prior to the modern environmental regulatory era. There is limited information concerning historic solvent use and no sampling to date.

Recommendation: PERFORM FOCUSED SAMPLING TO OBTAIN ACCURATE INFORMATION REGARDING SITE CONDITIONS

Property Location: 2538 Wisconsin

Pre-RCRA Activities: Per the Illinois EPA survey and their 104(e) response, Norwood has been at this property since the early 1970s, well before RCRA was enacted.

Evidence of Solvent Use: Norwood manufactures code dating equipment for food products, and generates wastewater, oil, and aqueous parts washer fluid.

1. **The nature of industrial operations suggests a potential for pre-RCRA use of solvents or solvent-containing chemicals:** Although Norwood claims not to have ever used solvents, EPA has tested other properties where the current management / owner stated a lack of current knowledge when, as here, prior operations indicated a potential for pre-RCRA solvent use.

2. **Norwood did not submit its RCRA SQG notification until more than ten years after RCRA was enacted:** Per EPA's Envirofacts database, Norwood is a SQG but did not submit its notification until 1991. This creates a potential concern regarding prior environmental management at the facility. Also note that this concern may be enhanced by the fact that Norwood has also historically discharged pollutants pursuant to an NPDES permit.

3. **There are also other manufacturing operations at this property:** Per Westlaw's corporate database, a company called Kingsley Machine Co. manufactures physicians' and surgeons' equipment and supplies at this location.

Sample Results: To date the property has not been sampled.

CVP Systems, Inc.

Analysis: Potential groundwater contamination based on prior sampling warrants further factual investigation and sampling.

Recommendation: OBTAIN PRE-1984 OCCUPANCY INFORMATION; TARGETED SAMPLING

Property Location: 2514 - 2518 Wisconsin

Pre-RCRA Activities: Unknown. The property manager, which per the Illinois EPA survey is listed as Darwin located in Elmhurst, should be contacted to learn more information. This is important because laboratory results from prior investigation estimated the presence of groundwater contamination at this property.

Evidence of Solvent Use: CVP Systems, Inc., an assembler of vacuum packaging equipment for the food industry, currently occupies the property at 2518 Wisconsin Avenue. According to the 2001 IEPA survey, CVP stated they did not use chlorinated chemicals; however, a small parts cleaner was in use "over seven years ago." CVP's response to the EPA's 104(e) information request indicates CVP has leased the property since 1984. From 1991 through 1998, Safety Kleen provided a tank for disposal of lubricant used for metal working machines and a parts washer. CVP also noted the presence of BFI waste bins on site.

Sample Results: Based on the floor plan diagram attached to CVP's 104 e response, the building actually contains 8 property addresses, with 2514, 2516, and 2518, being located on the northern half of the structure. As shown below, Weston collected samples along the building perimeter in this area. It appears that GP-103 was collected outside of address #2514 and GP-101 was collected between addresses #2516 and #2518. The parts washer tank as shown in CVP's 104(e) response was located inside the building in this area but only one sample, GP-101, was collected. Estimated concentrations of 1,1,1-TCA and 1,1-dichloroethane were detected in groundwater samples and one soil sample from the site. A trace but measurable amount of toluene was found in a groundwater sample from location GP-101.

K & C Services

Analysis: Potential groundwater contamination based on prior sampling warrants further factual investigation and sampling.

Recommendation: OBTAIN PRE-1984 INDUSTRIAL ACTIVITY INFORMATION; TARGETED SAMPLING

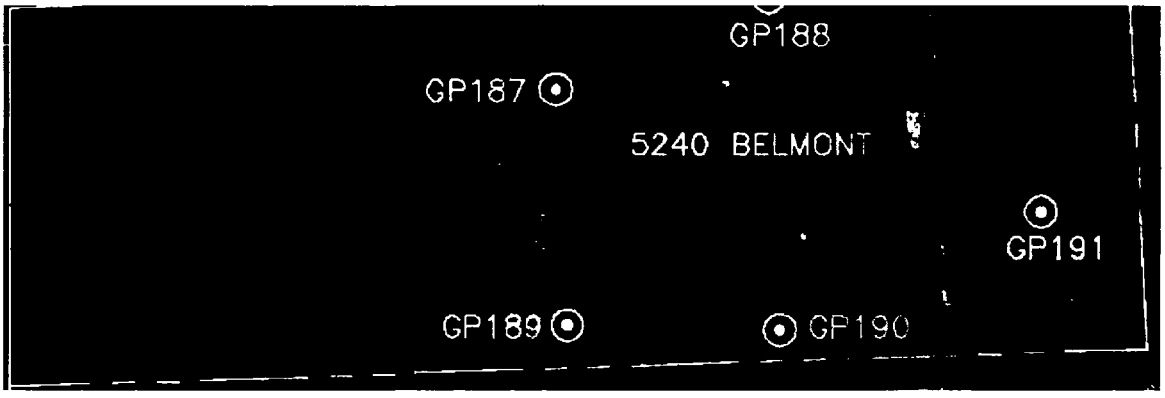
Property Location: 5240 Belmont

Pre-RCRA Activities: Unknown. Sample results indicating the presence of two chlorinated solvents in site groundwater suggest that further investigation is needed.

Evidence of Solvent Use: Note the sample results summarized below. As also noted, there is no information regarding the pre-RCRA industrial use of this property. Arrow Building Corporation owns the property, and Arrow was also a former occupant of the property, but dates are not provided. Also, no information is provided regarding Arrow's activities.

K&C Services, a machine tool repair company, currently occupies the property. The company leases the property and at the time of the Illinois EPA survey in 2001, it had been at the location for over 10 years. According to the response to the survey, the company does not use chlorinated chemicals, and a commercial product (Simple Green) is used for any required degreasing. There is no indication, however, whether the person who responded to the survey had knowledge of all of the years of K&C's operations at this location. There is also a separate survey for a company called Apex Media Solutions, but it states that there was no one on site to interview. Nothing further, including years of operation, is provided for this entity.

Sample Results: A measurable amount of 1,1,1-TCA (36 ppb) was found at location GP-187. Trace amounts of other chlorinated solvents were estimated in several other soil sample locations. Measured concentrations of TCE and 1,1-dichloroethane were found in a groundwater sample from GP-187 and estimated amounts of 1,1,1-TCA were detected in several other groundwater sampling locations. Trace amounts of TCE were also estimated for the groundwater sample from GP-191 (see Weston Tables 4-5A and 4-5B of the 2004 Report).



EconoTemp / Molex

Analysis: Per the Illinois EPA survey, Molex owned this property until 1987. Molex's other properties in Ellsworth Industrial Park are discussed in detail at Attachment J of this submittal. Based on those operations, more information is needed about the prior uses of this facility. Sampling is also appropriate based on Molex's industrial activities at its other properties.

Recommendation: INVESTIGATE PRIOR USE BY MOLEX; TARGETED SAMPLING

Property Location: 5280 Belmont

Pre-RCRA Activities: Unknown. Molex is identified as the prior owner of the property but there is no information regarding the dates of ownership, the operations conducted, or whether such activities occurred pre-RCRA. According to the Illinois EPA survey, the current occupant is EconoTemp, which services and supplies air conditioning equipment. EconTemp's 104(e) response indicates they purchased property in 1987 from Molex.

Evidence of Solvent Use: Unknown. The current occupant, EconoTemp, reported to Illinois EPA that they use Freon.

Sample Results: To date the property has not been sampled. Given the prior ownership of the property by Molex, and the proximity to another potentially impacted property, located at 5240 Belmont (K&C Services), it is recommended that the property be sampled.